



DEPARTMENT OF THE ARMY  
HEADQUARTERS, UNITED STATES ARMY, PACIFIC  
FORT SHAFTER, HAWAII 96858-5100

REPLY TO  
ATTENTION OF:

APPE-CP

21 November 2002

MEMORANDUM FOR

Director, Civilian Personnel Operations Center (APPE-CP-OC), 600 Richardson Drive #6700, Fort Richardson, AK 99505-6700

Civilian Personnel Director, Civilian Personnel Advisory Center (APVG-GV), U.S. Army Garrison, Hawaii, Fort Shafter, HI 96858-5002

Civilian Personnel Director, Civilian Personnel Advisory Center (APVR-RCP), 600 Richardson Drive #9700, Fort Richardson, AK 99505-9700

Civilian Personnel Director (APAJ-GA-CPAC), Unit 54005, APO AP 96343-0054

SUBJECT: Delegation of Authority for Approving Appointments Above the Minimum Rate Because of Superior Qualifications

1. References:

a. Memorandum, Office of the Assistant Secretary, Manpower and Reserve Affairs, 18 Nov 96, subject: Divestiture of Civilian Personnel Authorities.

b. 5 CFR.531.203, General Provisions for New Appointments.

2. Reference 1a and 1b above authorizes Commanders of major Army commands to redelegate authority to approve appointments above the minimum rate because of superior qualifications.

3. The Civilian Personnel Operations Center Director; and Civilian Personnel Advisory Center Directors, are authorized to "act for" the Commander, U.S. Army, Pacific (USARPAC) in Civilian Personnel Administration for employees serviced in USARPAC activities. The CPAC directors are responsible for ensuring that the:

a. Justification for superior qualifications are based on a realistic assessment of the overall quality of the candidates available in the specialized field of the position and that the determination for the higher rate will include the documentation listed in enclosure.

b. Justification include reasons for authorizing an advanced rate instead of or in addition to a recruitment bonus, and;

c. Managers are advised of the financial implication of this authority and that funds are available.

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4. The CPOC director will be responsible for authenticating the action and ensuring that the necessary documents are maintained for future review and/or audits.
5. Under this delegated authority, the advance-in-hire rate will not exceed 20 percent of the candidate's existing pay.
6. Additional guidance is attached at enclosure.
7. Annual reports on use of this authority should be forwarded to HQ USARPAC, ATTN: APPE-CP by 1 February each year for personnel actions completed by 31 December of the preceding year. The report must include the following:
  - a. The number of actions taken under the authority.
  - b. Information concerning any benefits derived from use of the authority.
  - c. Information concerning any significant problems associated with the use of the authority.
8. The point of contact is G1/DCSPER, Civilian Personnel Division, DSN (315) 438-6766.

Encl

  
JAMES L. CAMPBELL  
Lieutenant General, USA  
Commanding

CF: (w/encl)  
Director, CPD, U.S. Army Japan/9th TAACOM

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## APPOINTMENTS ABOVE THE MINIMUM BECAUSE OF SUPERIOR QUALIFICATIONS

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### 1. General considerations. Each action under this authority involves--

Eligibility for appointment.

(a) Any appropriate authority may be used, e.g., selection from a register, reinstatement, or excepted appointment.

(b) The authority applies to temporary and continuing positions at GS-11 and above, including merit pay positions (set pay at the applicable GS step).

(c) Federal employees are not eligible unless they are one of the exceptions listed in 5 CFR 531.203(b) (2). Any full-time appointment, including temporary appointment (such as a 30-day special need appointment), disqualifies a candidate for a superior qualifications appointment. Current Federal employment must not be full-time or the primary employment of the candidate to qualify for the exception in 5 CFR 531.203(b) (2).

2. Superiority of qualifications. In each case, superior qualifications should be based on a realistic assessment of the overall quality of candidates available in the specialty field of the position and the qualities that would distinguish the best prospects for the position. In an emerging field, a candidate with broad qualifications may have superior qualifications compared to candidates who qualify through formal education or limited experience in the specialty. For example, the candidate may have related experience or unusually high attainment in the broad occupational field such as management, law, or physics, or may have demonstrated ability to adapt to different subject-matter specialties. On the other hand, in an established occupational specialty, it would be reasonable to expect a superior candidate to have experience or education in the specific subject matter of the position. Whatever the definition of superior qualifications is, in each case, the record must clearly show that the nominee has these qualifications for the positions.

### 3. Justification for the requested rate.

(a) There is no set formula to determine propriety of a rate within the grade; each case must be evaluated with consideration to available high-quality candidates, legitimate and confirmed competing offers, existing compensation of the candidate, and the necessity of incentive above existing compensation.

(b) In determining income to be given up, which is to be compensated by the advanced rate, only the amount actually earned may be considered. Part-time employees, professors, or others paid for less than a full-time, 12-month basis, sometimes project their monthly or hourly rate to show the salary they would receive if

paid on a full-time, 12-month basis, sometimes project their monthly or hourly rate to show the salary they would receive if paid on a full-time basis. Such projected figures may not be the basis to approve an advanced rate, and salary claims should be verified so that only actual earnings are included. Similarly, the income to be paid at an advanced rate includes only that part of a candidate's total income that will actually be given up to accept the position. Income from sources such as book royalties or rental property owned by the candidate, which will continue during Federal employment, may not be counted in determining an advanced rate. While income from outside employment, such as teaching or consulting, may be credited, it should be verified that the candidate would actually give up the outside employment because of relocation, conflict of interest, agency policy, or other reasons.

(c) Generally, a rate above existing compensation is not warranted, especially when the candidate will be working in the same geographic area as his or her present place of employment. There may be exceptions when the proposed position is a promotion (in contrast to a move to an equivalent position), but the record must clearly show this is true. Requests involving relocation to an area with significantly higher cost of living may make a stronger case, particularly if an especially well-qualified candidate will not move without some financial incentive for making the move. Acceptance of a temporary position that will require the candidate to maintain two residences or move twice in a 1-year period may also justify a rate above existing compensation.

(d) Particular care must be exercised when an advanced rate is requested to match salary earned in the military or as a consultant. A superior qualifications appointment cannot be used to replace military pay and benefits, which the candidate normally would have given up upon departure from the military. Neither is a superior qualifications appointment to be used to counteract the reduction-in-military-retirement-pay provisions of 5 USC 5532. Military retirement pay to be forfeited under the dual compensation restrictions may not be credited in determining propriety of an advanced rate.

(e) An advanced rate may be based on earnings as an expert or consultant when it can be shown that the candidate's current earnings are typical of what he or she can command, and that the level of compensation is likely to continue. Generally, an advanced rate should not reflect only the income from a single consulting assignment, particularly one soon to be completed; it should be based on average income earned by the candidate over the past few years and other offers of consulting work that the candidate may have. For a self-employed consultant whose fees include office expenses, net rather than gross income is the correct basis for considering an advanced rate.

(f) Under the authority delegated by OPM, activities will limit the requested rate to no more than 20 percent above a candidate's existing pay.